

## **REMARKS**

### **I. Status of the Claims**

Claims 1-5, 7-19, 70, 72-75, 83, and 85-88 are currently pending under examination. Upon entry of the present amendment, claim 1 is amended to clarify that the immunogenic fragment of an MTB32A antigen (SEQ ID NO:2 or 4) comprises at least one amino acid corresponding to position 183 of SEQ ID NO:4 or position 208 of SEQ ID NO:2 in the MTB32A antigen (SEQ ID NO:2 or 4) that has been substituted by a different amino acid. Claim 4 is amended to cure a grammatical imperfection. Claims 8-10 are amended to delete reference to claim 6, which was previously canceled.

This amendment was not submitted earlier because Applicants in good faith believed that such amendment would be unnecessary to overcome the outstanding claim rejections raised in the previous Office Action. Since this amendment adds no new matter and requires no new search, its entry is respectfully requested.

### **II. Claim Rejection and Objection**

In the Final Office Action mailed July 15, 2005, the Examiner sustained the double patenting rejection of claims 1, 4, and 19 over claim 1 of U.S. Patent No. 6,627,198 ("the '198 patent"). The Examiner's reconsideration is respectfully requested in light of the present amendment.

Claim 1 of the '198 patent is directed to an isolated polypeptide comprising the amino acid sequence of SEQ ID NO:26, which is identical to SEQ ID NO:20 of the present application. Applicants understand that the Examiner maintained the double patenting rejection because he took the view that the language "an immunogenic portion thereof" in claim 1 allows coverage of a polypeptide comprising a fragment of SEQ ID NO:2 or SEQ ID NO:4, which does not necessarily contain the point mutation, and the claim scope may therefore overlap with that of claim 1 of the '198 patent. As amended, claim 1 has been reworded to specifically indicate that at least one of the two possible point mutations is present in an immunogenic fragment of the MTB32A antigen. Applicants thus submit that amended claim 1 (and its dependent claims 4

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and 19) should no longer be rejected on the ground of double patenting over claim 1 of the '198 patent.

Claims 2, 3, and 7-18 were objected to for their dependency from a rejected base claim. Since the rejection of claim 1 has been addressed above, Applicants believe that the objection to these claims is overcome as well.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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